

Memorandum

To: Jaime Murillo, Senior Planner
From: Nancy Gardner, EQAC Chair
Date: November 14, 2013
Re: Comments on the Back Bay Landing Draft EIR

The Environmental Quality Affairs Committee (EQAC) is pleased to have this opportunity to comment on the draft Environmental Impact Report (SCH No. 2012101003) for the proposed Back Bay Landing project. It is our hope that these comments will lead to the best possible project for the City of Newport Beach, the neighbors and the applicant. Our comments are summarized below and follow in the order of appearance in the DEIR as far as possible.

SECTION 0.0: EXECUTIVE SUMMARY

~~Page ES-4. While I assume the community would be on board with a community tower, is there an alternative to this that would still provide viewing area if local residents object?~~

Note: This comment is more of a consideration of the project's design features (or lack thereof) and not the EIR. Therefore, it is recommended that the comment not be included.

~~Page ES-5. Newport contains a wide variety of architecture and community character. Mentioning that it will be in line with the general character of Newport is very vague.~~

Note: The statement in question is indeed somewhat vague. However, the statement is that the Back Bay Landing Planned Community Development Plan (PCDP) is intended to maintain "compatibility with the architecture and overall community character of Newport Beach." Whether or not the PCDP accomplishes this will have to be decided by Planning Commission and City Council. Unless the comment can be related to a potential environmental impact (i.e., a conflict with a land use policy or visual quality impact), it is recommended that the comment not be included.

~~Page ES-6. The Lido area commercial plan seems similar to the landing. The community might be hesitant to create another area where restaurants and businesses have a tough time thriving.~~

Note: The project's acceptance by the community or economic viability are not subjects that should be addressed in the EIR. Therefore, it is recommended that the comment not be included.

~~Page ES-6. The type of boats that would be stored is vague. The location makes it seem as though it would be boats on the smaller side.~~

Note: It is recommended that this comment be revised and moved to comments on the Project Description section.

~~Page ES-8 (Subsection (3)). Driving through the area or looking at it on google satellite shows that the trailer park area is already close to capacity. Push back from owners be pushed closer to relocated units may be upset.~~

Note: Potential opposition by nearby residents is not relevant to the environmental analysis. Therefore, it is recommended that the comment not be included.

~~Page ES-16 (Candidate, Sensitive, and Special Status Species). Mitigation Measure C-1 should examples of the type of actions the City would be required to take in order to prevent impacts to least terns during the breeding seasonThe proposed length of project seems as though there is no question that it would overlap with the breeding season.~~

SECTION 2.0: PROJECT DESCRIPTION

~~General. The type of boats that would be stored is vague; EIR needs to provide information on the type and size of boats that will be stored in the proposed dry-stack boat storage facility.The location makes it seem as though it would be boats on the smaller side.~~

~~Restaurants: why are they as far away from the water as possible and located at PCH/Bayside instead? Wouldn't waterfront dining be a better draw?~~

Note: This comment is more of a consideration of the project's design features and not the EIR. Therefore, it is recommended that the comment not be included.

~~Page 2-15. The decorative 8-foothigh masonry wall separating the project from the mobile home park: what does it mean by "decorative"? What are the specifics in this regard, and the accompanying landscaping?~~

Note: The PCDP only a Conceptual Site and Landscape Plan; therefore, specifics on the design of the wall are not provide at this time. Future development will require a Site Development Review approved by the Planning Commission. Unless the lack of specifics about the design of the wall can be related to a potential environmental impact, it is recommended that the comment not be included.

~~Figure 2-7. Building heights: where do the 35/40 foot and the 26/31 foot maximums come from? How were these maximum heights derived?~~

Note: The height limits proposed in PCDP reflect the base and maximum height limits in the Zoning Code for nonresidential development in the Shoreline Height Limit Zone. Unless the question can be related to a potential environmental impact, it is recommended that the question not be included.

~~P. 2-25 (8):Page 4.M-32. Is not clear from prose the narrative and exhibits whether the 42' 12-foot-wide Bayfront Promenade/Trail will have portions of the path strictly designated for pedestrians that are separate from the Bbicycle path portions. That is, if I understand correctly, this plans to extend Extending a highly-used cycling trail by biking sport enthusiasts (riding at high speeds despite posted speed restrictions), and the intermingling of Bike and Pedestrian traffic may not be safe. The artist depiction on Figure 2-17 suggests no separation of these two kinds of traffic. This might cause hazards that outweigh the promotion of a "people scaled pedestrian friendly community" (p. Page 4.B-38, Table 4B-9).~~

Suggestion: A curb bisecting the path and running the length of the Promenade could serve to separate the two forms of traffic and address this problem (models for this kind of thing exist – one example that works well is the very busy pedestrian and bike path along English Bay and Stanley Park in Vancouver B.C., Canada).

Note: It is recommended that this comment be revised and moved to comments on the Traffic and Circulation section.

~~Page 4.I-72-8 (General Plan Amendment). The EIR should clarify how the residential density was calculated and the basis for The 2006 General Plan approved land use designation of (RM) for Parcels 1 and 2 seems to be inaccurate. Is the surplus density of 75 residential dwelling units accurate?~~

Note: It is recommended that this comment be revised and moved to comments on the Land Use section.

~~Page 2-8 (Subsection 1 (a)). Again looking at the plausibility of relocating trailers in to an already impacted area.~~

~~Page 2-15, (Traffic). People will be less concerned with the end product traffic and more concerned with the traffic that construction will cause.~~

Unless these comments can be related to a potential environmental impact, it is recommended that these comments not be included.

~~Page 4.M-12-2-21 (Table 2-3). The EIR should consider in adequacy of parking during peak periods. The parking ratio requirements in Table 2-3 in Section 2.0 seem to show~~

~~suggests~~ an inadequate amount of parking coverage during peak periods. (i.e., Summer months, holiday events.

Note: It is recommended that this comment be revised and moved to comments on the Transportation/Traffic section.

~~Page 2-35 (Public Improvements). Is there any idea how much of improvement the upgraded OCSD facility will be?~~

Note: The PCDP provides that the OCSD facility will be subject to Site Development Review process and subject to the PCDP Design Guidelines. However, unless this question can be related to a potential environmental impact, it is recommended that this question not be included.

~~Page 2-39 (Project Objectives), Fourth Bullet. It does not seem accurate nor in the general spirit of the General Plan to necessitate new housing opportunities within the project site.~~

Note: The statement of project objectives is intended to help the City as the lead agency to develop a reasonable range of alternatives to evaluate in the EIR. Unless it can be shown that this statement somehow is inconsistent with a land use policy or regulation, it is recommended that this comment not be included.

Page 2-40 (Necessary Approvals). Any target dates for approvals? – TG

Note: It is recommended that the request for this information not be included.

SECTION 4.A: AESTHETICS

~~Page 4.A-11. 65-foot coastal viewing tower: have the views of the nearby residents been taken into account? A very tall tower, lit at night, will dominate the sky line in that area. Please clarify if the Coastal Public View Tower will be illuminated at night and address lighting impacts to surrounding land uses and habitat. Moreover, how~~

~~Page 4.M-12. How will the tower be accessed by pedestrian traffic as it will be situated in the middle of the vehicle traffic roundabout?~~

Note: City policies only address impacts to public views. As impacts to private views are not required to be evaluated, it is recommended that the first part of this comment not be included. It is recommended that the second part of this comment be revised and third part of this comment be moved to comments on the Transportation/Traffic section.

~~Page 4.A-13. Views: How will the 65-foot tower not have an adverse effect on the scenic vista of the back bay or harbor?~~

Note: The Coastal View Tower is depicted in the visual simulations. Unless it is believed that the simulation does not accurately depict the tower or that the impact analysis does not address the impact of the tower, it is recommended that this comment not be included.

Page 4.A-13 (Views/Scenic Vistas). The EIR ~~fails to~~ does not adequately identify and address ~~the substantial adverse effect impacts~~ the project may have on the scenic vista from Public View Corridor 8 (Fig. 2-4). The EIR ~~fails to~~ does not provide a ~~V~~view ~~S~~simulation from the focal point/main viewing area of Castaways Park. This area is narrowly identified in View Simulation 5, but this viewpoint should not be construed as a true depiction of the scenic vista views from View Corridor 8.

Page 4.A-28 (Artificial Light). The EIR does not address new light sources from patio/balcony areas of residential structures.

SECTION 4.C: BIOLOGICAL RESOURCES

Page 4.C-9. ~~Would Please clarify how~~ smaller animals ~~that may not be able to relocate will not~~ be harmed during the dredging portion of the construction. ~~I would imagine they wouldn't all relocate.~~

~~Page 4.C-11 (Sensitive Species). Tern breeding grounds 2 miles away seems sufficient enough mitigation for the proposed project.~~

Note: The statement in question is part of the description of the existing conditions, not an analysis of the impacts or mitigation. Unless the comment can be related to a potential environmental impact, it is recommended that the comment not be included.

~~Page 4.C-16 (Mammals). What mitigation techniques would be used if mammals don't easily relocate themselves. Complete shutdown until they move?~~

Note: Mitigation Measure C-3 provides that work will be halted if any observations of marine mammals are made. Unless it is believed that this mitigation measure is inadequate, it is recommended that the comment not be included.

~~Page 4.C-17 (Stormwater). Is there sufficient deterrents for employees of the construction company not to commit any improper disposal?~~

Note: Mitigation Measure C-10 requires a storm water pollution prevention plan (SWPPP). Unless it is believed that this mitigation measure is inadequate, it is recommended that the comment not be included.

~~Page 4.C-20. (Subtidal Vegetated Habitat). If the eelgrass preservation is a concern why not just state that the patches will be marked.~~

Note: Mitigation Measure C-5 requires eelgrass beds to be staked. Unless it is believed that this mitigation measure is inadequate, it is recommended that the comment not be included.

SECTION 4.E: GEOLOGY AND SOILS

Page 4.E-4 (Soil Corrosivity). The EIR ~~fails to~~ does not offer mitigation for the corrosion potential to buried ferrous metal. Although the EIR states further testing should take place during construction, this should not be offered as a means to mitigate any risk to possible structure collapse.

~~Page 4.E-7 (Liquefaction). The Liquefaction possibility is countered by several mitigation measures, but it seems as though none of them are certain. Is this a concern?~~

Note: Unless it is believed that the mitigation measures are inadequate, it is recommended that the comment not be included

Page 4.E-10 (Failure). The EIR ~~fails to~~ does not identify specific ~~M~~mitigation measures to resolve substantial adverse effects that exist from ~~S~~seismic-related ground failure, including liquefaction. The EIR states that with implementations of the recommendations in the Preliminary Geotechnical Study, they would need to be refined in a “design-level analysis”; the analysis should be made available to determine whether substantial adverse effects exist.

Page 4.E-10 (Failure). The EIR does not discuss the substantial adverse impact that the future design feature of a water inlet may have on the site soil.

SECTION 4.F: GREENHOUSE GAS EMISSIONS

The estimated maximum of “3,271 metric tons” of CO₂e per year (p. 4.F-20, paragraph 3) differs from the subtotal of the same measure cited in Table 4.F-3 (p. 4.F-21).

The Table 4.F-7 level of mitigated CO₂e levels (=3,010) still exceed the SCAQMD draft screening threshold of 3,000 metric tons of CO₂e per year. Why is the “Exceeds Threshold?” response listed as “No”? Is there some acceptable amount of variance that allows 3,010 to be under the 3,000 threshold?

SECTION 4.J: NOISE

Page 4.J-3 (Newport Beach Municipal Code). There ~~looks~~ appears to be an error in the bold reference section.

Page 4.J-20 (On-Site Construction Noise). The threshold established does not adequately address the significant impact on-site construction noise will have on the area. Although construction is temporary in nature, and in turn exempt from excessive noise levels, the EIR should provide a more accurate means to mitigate these noise levels. Estimated duration of work activity and smaller windows for heavy machine operations may help mitigate.

Page 4.J-22 (Off-site Construction Noise). ~~It seems as though the 15ft~~ The 15-foot-tall temporary noise barrier-wall would not mitigate noise from construction trucks outside of the project site ~~help this either since the trucks would have to come and go.~~

Page 4.J-36. The 15ft wall may be objected by residents and businesses around the area for aesthetic reasons.

Note: Potential opposition by nearby residents and business is not relevant to the environmental analysis. Unless the appearance of the 15-foot-tall temporary noise barrier presents an significant visual impact, it is recommended that the comment not be included.

SECTION 4.K: POPULATION, HOUSING, AND EMPLOYMENT

~~The project will have limited population and housing impact, regardless of whether the proposed project plan is adopted or if the heavier residential alternative is adopted.~~

~~Project will have a limited impact on employment once construction is complete, slightly less so if the heavier residential alternative is adopted.~~

~~Impact will skew the housing/job ratio further, but the absolute impact is not significant given the magnitude of the project (250 jobs, 49 housing units).~~

~~Overall impact in this area is less than significant, so no mitigation measures are required.~~

Note: The comments appear to agree with the analysis and conclusions of the EIR. Therefore, the comments are not needed.

SECTION 4.L: PUBLIC SERVICES

~~No significant impact on fire and emergency response services. The project would not have an impact on overall response times or service levels, and would be served out of existing facilities.~~

~~No significant impact on provision of police services. Given its small size, the project would not have an impact on police response times and service levels, and would be served out of existing facilities.~~

~~No significant impact parks and recreation facilities, as the small size of the project is unlikely to lead to incremental demand for park and recreational services (and the site could potentially add in this regard with the addition of trail access).~~

~~No impact on schools given the size of the project and limited incremental population/housing growth. (The site will be served through existing facilities at Lincoln Elementary and Corona Del Mar High school).~~

~~No impact of library services given the small size of the project.~~

~~The project is consistent with existing regulatory frameworks, including the General Plan and Municipal code.~~

~~Summary limited impact in this area, requiring no mitigation. Alternative project plans would reduce impacts slightly, but overall impact would be limited given magnitude of the project's footprint.~~

Note: The comments appear to agree with the analysis and conclusions of the EIR. Therefore, the comments are not needed.

SECTION 4.N: UTILITIES AND SERVICE SYSTEMS

~~As currently proposed, the project would require the construction of new water facilities on the site, including a new 8inch water line that would serve the project and tie into the existing 12inch water line on Bayside Drive. The project would also require the abandonment of removal of an existing 30inch water line traversing the property. This removal is already considered a high priority for the city, however, and replacement would be considered beneficial. There are two alternatives currently under consideration for the removal and replacement of the line.~~

~~The project would have a minimal impact on wastewater treatment requirements, or require new wastewater facility construction. There will be a temporary impact during construction, but this will not result in an increased wastewater flow that would require new capacity.~~

~~The site will require the construction of new storm water drainage facilities, including several new outlets and a new drain system for the eastern portion of the site. Per the PDGP, the project would also include Low Impact Development features including storm planters, permeable pavement, etc.~~

~~Solid waste will result from demolition and construction during the project's construction and development phase. Waste materials from the construction process will be disposed of at the FRB Landfill. The volume is not expected to be significant, or to generate the need for additional landfill capacity.~~

~~During the project's operational phase, the amount of water generated will be small-equivalent to .003 percent of FRB daily landfill capacity.~~

Note: The comments appear to agree with the analysis and conclusions of the EIR. Therefore, the comments are not needed.

~~Question/Note: There is no discussion of potential impacts to electric and gas utility utilities. impact from the project will the developer be paying for all interconnects? Are there any additional impacts in this regards?~~

~~Summary: Overall impact from the project will be less than significant, but the project—along with others—will contribute to cumulative need for more water/wastewater capacity. Mitigation measures include city water connection and wastewater connection fees, as well as a requirement that the project contract with a waste disposal company that recycles demolition and construction wasters during the construction phase. The adoption of alternatives here would have a limited impact in regards to the impacts of the project upon Public Services.~~

Note: The comment appear to agree with the analysis and conclusions of the EIR. Therefore, the comment is not needed.

SECTION 5.0: ALTERNATIVES

Page 5-3 (Alternative Locations). The only ~~one-listed alternative site provided~~ is the Newport Dunes. A more thorough discussion of the parameters used to identify potential alternative sites should be provided~~Is there any other places outside the dunes that might be acceptable.~~

SECTION: OTHER MANDATORY CEQA CONSIDERATONS

~~Page 6-2 (Growth-Inducing Impacts). While there is a cap imposed on the area, a thriving commercial and residential area would likely spur prospects of growth nearby.~~

Note: Unless it is believed that the project will have growth-inducing impacts beyond local and regional forecasts, it is recommended that the comment not be included.

~~Page 6-6 (Aesthetics). Is it possible that the PCH Scenic Route designation may take place before the Back Bay Landing Approvals?~~

Note: CalTrans has a specific nomination process and criteria for the designation of Scenic Highways. Since no effort is currently underway, it is not likely that designation will take place before project is considered by the City. Therefore, it is recommended that the comment not be included.